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DIGEST OF OTHER RECENT VIRGINIA DECISIONS.**Supreme Court of Appeals.**

Note.—In this department we give the syllabus of every case decided by the Virginia Supreme Court of Appeals, except of such cases as are reported in full.

HUNDLEY et al. v. NEALE.

June 10, 1909.

[64 S. E. 947.]

1. Fish (§ 7*)—Oyster Grounds—Allotment—Application.—Evidence held to justify a finding that bona fide applications for the allotment of oyster ground in controversy had been filed, antedating the petitioners' application.

[Ed. Note.—For other cases, see Fish, Dec. Dig. § 7.* 10 Va.-W. Va. Enc. Dig. 621.]

2. Fish (§ 7*)—Oyster Ground—Allotment—Applications—Delay.—Petitioners for the allotment of oyster ground were not prejudiced by delay in securing action on their petitions, due to no fault of theirs.

[Ed. Note.—For other cases, see Fish, Dec. Dig. § 7.* 10 Va.-W. Va. Enc. Dig. 621.]

Judgment affirmed. All the judges concur.

NORFOLK & P. TRACTION CO. v. O'NEILL.

June 10, 1909.

[64 S. E. 948.]

1. Appeal and Error (§ 1046*)—Harmless Error—Misconduct of Trial Court.—The misconduct of the court in expressing opinion as to its understanding of the testimony of a witness, made while overruling an objection to a question asked another witness, was not prejudicial, where the witness had testified as the court understood him.

[Ed. Note.—For other cases, see Appeal and Error, Cent. Dig. § 4134; Dec. Dig. § 1046.* 1 Va.-W. Va. Enc. Dig. 598.]

2. Witnesses (§ 379*)—Impeachment.—The admission of statements, made by the motorman after an accident resulting in injuries in a collision with his car, as to the circumstances attending it, is proper, where the statements were admitted as affecting the credibility of the motorman testifying as a witness, and not as admissions binding his employer, and the jury were so instructed.

*For other cases see same topic and section NUMBER in Dec. and Am. Digs. 1907 to date, and Reporter Indexes.

[Ed. Note.—For other cases, see Witnesses, Cent. Dig. § 1209; Dec. Dig. § 379.* 13 Va.-W. Va. Enc. Dig. 966, et seq.]

3. Street Railroads (§ 81*)—Injuries to Travelers—Liability.—A traveler on a street on which a street car is operated may go on or near the track in passing a wagon standing near the curb, and the motorman must warn her of the approach of the car, where there is danger of running her down, and must slow down his car so as to avoid injuring her, if he can do so in the exercise of reasonable care after he ought to have seen her peril.

[Ed. Note.—For other cases, see Street Railroads, Cent. Dig. §§ 172-177; Dec. Dig. § 81.* 12 Va.-W. Va. Enc. Dig. 841.]

4. Trial (§ 260*)—Instructions.—Where, in an action for injuries to a bicycle rider struck by a street car, the evidence showed that the rider went on or near the track in passing a wagon standing near the curb, and the proof was conflicting whether the accident occurred before or after the car had passed the wagon, an instruction that the car had the right of way at the point at which the accident occurred, and that if the motorman was proceeding at a lawful rate of speed, and plaintiff was not approaching a place of obvious danger, the motorman owed no duty to slow down his car, covered both phases of the case and left the jury to determine at what point plaintiff was injured, rendering it proper to refuse instructions assuming that the accident did not occur until after the car had passed the wagon.

[Ed. Note.—For other cases, see Trial, Cent. Dig. §§ 651-659; Dec. Dig. § 260.* 7 Va.-W. Va. Enc. Dig. 730.]

5. Appeal and Error (§ 1003*)—Verdict—Conclusiveness.—A verdict contrary to the preponderance of the evidence, but supported by evidence, rendered on proper instructions, will not be disturbed.

[Ed. Note.—For other cases, see Appeal and Error, Cent. Dig. §§ 3938-3943; Dec. Dig. § 1003.* 1 Va.-W. Va. Enc. Dig. 620, et seq.]

Judgment affirmed. All the judges concur.

BROWN v. LYNCHBURG NAT. BANK.

June 10, 1909.

[64 S. E. 950.]

1. Banks and Banking (§ 151*)—Relation between Depositor and Bank—Obligation of Depositor.—A bank depositor must examine within a reasonable time and with ordinary care the account rendered in the passbook and the vouchers returned by the bank to him, and report any error discovered without unreasonable delay; and the examination need not be so minute as to exclude any possibility of error,

*For other cases see same topic and section NUMBER in Dec. and Am. Digs. 1907 to date, and Reporter Indexes.